

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
U.S. Department of Justice)
Disability Rights Section)
950 Pennsylvania Avenue, NW)
4CON, 9th Floor)
Washington, DC 20530)

Plaintiff)

v.)

ALABAMA DEPARTMENT OF)
TRANSPORTATION)
1409 Coliseum Boulevard,)
Montgomery, AL 36110)

Defendant.)
_____)

COMPLAINT
Jury Trial Demanded

Civil Action No.:

COMPLAINT

Plaintiff, the United States of America, states and alleges, upon information and belief:

1. The United States brings this suit against the Alabama Department of Transportation (“ALDOT”) to enforce the statutory and regulatory provisions of Title I of the Americans with Disabilities Act of 1990, as amended (“ADA”), 42 U.S.C. §§ 12111–12117, which incorporate, through 42 U.S.C. § 12117(a), the powers, remedies, and procedures set forth in Title

VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.

Title I of the ADA prohibits employment discrimination based on disability.

2. ALDOT violated Title I of the ADA by failing to hire Complainant based on his disability in violation of the ADA.
3. ALDOT also violated Title I of the ADA by using qualification standards and selection criteria that screened out Complainant based on his disability and that were not job-related or consistent with business necessity.

JURISDICTION AND VENUE

4. This Court has jurisdiction of the action under 42 U.S.C. §§ 12117(a) and 2000e-5(f), and 28 U.S.C. §§ 1331 and 1345.
5. This Court has authority to grant a declaratory judgment and further relief pursuant to 28 U.S.C. §§ 2201–2202 and authority to grant equitable relief and monetary damages pursuant to 42 U.S.C. § 12117(a).
6. Venue is proper in this district under 42 U.S.C. § 2000e-5(f)(3) because the unlawful employment practice is alleged to have been committed in this district, and the aggrieved person would have worked in this district but for the alleged unlawful employment practice. Venue is also proper in this district under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the Complaint occurred in this district.

PARTIES

7. Plaintiff is the United States of America. The United States has authority to initiate legal proceedings to enforce Title I of the ADA through litigation. 42 U.S.C. § 12117(a).
8. Defendant is the Alabama Department of Transportation. ALDOT is an agency of the State of Alabama. Defendant is a person within the meaning of 42 U.S.C. § 12111(7), 42 U.S.C. § 2000e(a), and 29 C.F.R. § 1630.2(c). Defendant is an employer within the meaning of 42 U.S.C. § 12111(5) and 42 U.S.C. § 2000e(b), and 29 C.F.R. § 1630.2(e). Defendant is a covered entity within the meaning of 42 U.S.C. § 12111(2) and 29 C.F.R. § 1630.2(b).

FACTS

9. At all relevant times, Complainant was a resident of the State of Alabama.
10. Complainant is an individual with a disability within the meaning of 42 U.S.C. § 12102 because he has permanent physical restrictions because of a shoulder injury, which substantially limits the operation of one or more major life activities or major bodily functions, including manual tasks, lifting, and musculoskeletal functions. 29 C.F.R. § 1630.2(i)(1)(i)-(ii).
11. Complainant began work with ALDOT in 1999 as a Laborer, which was eventually converted to a position called Transportation Maintenance Technician (“TMT”) I.

12. The TMT role primarily involves operating light to heavy machinery in connection with the maintenance and construction of highway facilities. The role requires operating various pieces of mechanized equipment and supervising incarcerated people completing highway maintenance, among other tasks. Although a job dimension worksheet for the TMT role lists “lift at least 50 pounds” as one of 34 required job dimensions, the role rarely requires lifting heavy objects without relying on mechanized equipment. Further, because TMTs typically work in pairs, TMTs do not generally need to lift heavy objects on their own, and they also often shift this task to other TMTs who are better able to lift heavy objects.
13. On or about October 19, 2007, Complainant was thrown off the back of a truck while working as a TMT for ALDOT, and his shoulder was injured.
14. He required multiple surgeries that permanently affected his ability to lift heavy objects for a long time.
15. Complainant returned to work around January 2009 after reaching maximum medical improvement.
16. After reviewing Complainant’s permanent activity restrictions and discussing with Complainant the tasks he can perform, ALDOT ultimately accommodated his disability in the TMT I role.
17. Complainant continued working as a successful employee, regularly exceeding expectations in performance evaluations. Complainant’s

accommodations included relying on coworker help for lifting heavier objects, modifying the manner of performing some of his tasks, and more frequent rests, among others.

18. Even with his disability, Complainant was eventually selected for a promotion to a TMT II based on his satisfactory performance with ALDOT. His accommodations continued while Complainant was a TMT II.
19. Around February 2015, Complainant decided to retire from his position with ALDOT.
20. In or around December 2017, Complainant sought to return to his former position as a TMT with ALDOT. Complainant met with an ALDOT manager and discussed returning to the job. This manager had worked with Complainant previously and was aware of his injury and accommodations that he received from ALDOT. This manager was also one of the individuals who subsequently interviewed Complainant for the TMT position.
21. On or about December 14, 2017, Complainant completed an application for a TMT position with ALDOT.
22. On or about February 22, 2018, ALDOT interviewed Complainant for the TMT position. In February and March of 2018, ALDOT interviewed seven candidates for the TMT position, including Complainant.

23. Complainant was interviewed by at least two ALDOT employees, including the manager he spoke with previously. The second employee also knew that Complainant was injured during his previous employment with ALDOT.
24. During Complainant's interview, the ALDOT interviewers asked Complainant whether he could lift more than 50 lbs. Complainant explained that he has always been able to get the job done.
25. Although the ALDOT interviewers were aware of Complainant's injury, they moved on without asking any questions about how Complainant could get the job done with or without reasonable accommodations.
26. Complainant was ultimately one of two candidates who was not offered a position out of the seven candidates interviewed, solely on account of his disability.
27. In the interview notes accompanying Complainant's interview, an ALDOT interviewer wrote that Complainant's strength was "previous experience w[ith] ALDOT," and his only weakness was "can't lift 50 lbs."
28. Successful applicants in Complainant's hiring round, none of which had any previous working experience with ALDOT, received comments on interview notes such as "young [and] healthy," and "youth." Interview notes also mentioned that several of the successful applicants had insufficient equipment or other relevant experience and no commercial driver's license,

which was required for the position. Complainant had years of experience and the required commercial driver's license.

29. Complainant was notified several weeks later when he asked about the status of his application that he was not selected for employment with ALDOT as a TMT.
30. After Complainant had his application at ALDOT rejected, he worked part-time for a Toyota dealership until he was laid off at the start of the COVID-19 pandemic in the spring of 2020. He has been unemployed since.
31. Complainant suffered emotional distress because of ALDOT's actions.
32. On or about September 28, 2018, Complainant filed a timely charge of discrimination with the United States Equal Employment Opportunity Commission ("EEOC") (number 846-2018-15866) alleging that ALDOT discriminated against him on the basis of disability in violation of the ADA.
33. Pursuant to 42 U.S.C. § 2000e-5, incorporated by reference in 42 U.S.C. § 12117(a), the EEOC investigated Complainant's charge and found reasonable cause to believe that ALDOT discriminated against him.
34. After the EEOC's conciliation efforts with ALDOT failed, the EEOC referred the matter to the United States Department of Justice.
35. All conditions precedent to the filing of this action have been performed.

CAUSE OF ACTION:

Violation of Title I of the Americans with Disabilities Act

36. The allegations of the foregoing paragraphs are hereby incorporated by reference.
37. Title I of the ADA prohibits covered entities from discriminating against a qualified individual on the basis of disability in regard to job application procedures, hiring, and other terms, conditions, and procedures of employment. 42 U.S.C. § 12112(a).
38. Complainant is a person with a disability within the meaning of 42 U.S.C. § 12102 because he has an impairment, stemming from an injury, that substantially limits the major life activities of performing manual tasks and lifting, among others. *See* 29 C.F.R. § 1630.2(g).
39. ALDOT's conduct as described in this Complaint constitutes discrimination on the basis of disability in violation of Title I of the ADA, 42 U.S.C. §§ 12111–12117 and its implementing regulation, 29 C.F.R. § 1630.
40. Specifically, ALDOT violated the ADA when it failed to hire Complainant due to his disability even though he was a qualified person with a disability who could perform the essential functions of the position he applied to, with or without reasonable accommodation. *See* 42 U.S.C. § 12112; 29 C.F.R. § 1630.

41. ALDOT also violated the ADA by using qualification standards or other selection criteria that screened out an individual with a disability and that were not job-related or consistent with business necessity. *See* 42 U.S.C. § 12112; 29 C.F.R. § 1630.
42. As a result of ALDOT's discriminatory conduct, Complainant has suffered and continues to suffer harms, including lost income, lost benefits, emotional distress, mental anguish, pain and suffering, frustration, and humiliation.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court:

- A. Grant judgment for the United States and declare that ALDOT has violated Title I of the ADA, 42 U.S.C. §§ 12111-12117, and its implementing regulation;
- B. Enjoin ALDOT and its agents, employees, successors, and all persons in active concert or participation with it, from engaging in discriminatory employment policies, practices, and procedures against individuals based on disability;
- C. Require ALDOT to modify its policies, practices, and procedures as necessary to comply with Title I of the ADA and its implementing regulation;

- D. Require ALDOT to train its managers and employees conducting hiring on the requirements of Title I of the ADA as well as ALDOT's policies for implementing those requirements;
- E. Award Complainant back pay with interest, additional sums for associated benefits with interest, and compensatory damages in an appropriate amount for Complainant's injuries suffered as a result of ALDOT's failure to comply with the requirements of Title I of the ADA; and
- F. Order such other appropriate relief as the interests of justice require.

JURY DEMAND

Plaintiff United States of America requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Respectfully submitted this 31 day of July, 2023.

FOR THE UNITED STATES OF AMERICA

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